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20 **IN THE UNITED STATES DISTRICT COURT**
 21 **NORTHERN DISTRICT OF CALIFORNIA**
 22 **SAN FRANCISCO DIVISION**

23 **KEVIN FAULK**, on behalf of himself
 24 and all others similarly situated,

25 **Plaintiff,**

26 **-v-**

27 **SEARS, ROEBUCK AND CO.,**

28 **Defendant**

Case Number: 4:11-CV-02159-YGR

STIPULATION REGARDING A
CHANGE IN THE BRIEFING
SCHEDULE FOR NAMED PLAINTIFF'S
MOTION FOR CLASS CERTIFICATION
AND AMENDED ORDER

29 Through this Stipulated Request and [Proposed] Order, Plaintiff Kevin Faulk (“Plaintiff”) and Defendant Sears, Roebuck and Co. (“Sears”) stipulate and agree to change the briefing on

1 Plaintiff's Motion for Class Certification, and jointly request that the Court approve this change
2 pursuant to L.R. 6-2.

3 WHEREAS, in a minute entry on January 20, 2012, Judge Susan Illston set the following
4 schedule for class certification:

5 Deadline for filing of anticipated class certification motion	October 5, 2012
6 Sears' opposition to class certification due	November 9, 2012
7 Plaintiff's reply in support of class certification due	November 26, 2012
8 Hearing on Plaintiff's motion for class certification:	December 17, 2012

10
11 WHEREAS, the case was transferred to the Honorable Judge Yvonne Gonzalez Rogers
12 on March 28, 2012 [Dkt. 54];

13 WHEREAS, on April 3, 2012, Judge Yvonne Gonzalez Rogers reset the hearing date for
14 Plaintiff's anticipated motion for class certification to December 11, 2012 with the briefing
15 schedule remaining the unchanged [Dkt. 55];

16 WHEREAS, on July 24, 2012, Plaintiff sent Defendant a letter and requested available
17 dates for depositions of a number of Defendant's current and former employees located in
18 Oregon, Washington, Chicago, and Las Vegas, and each of those depositions has occurred or has
19 been scheduled to occur during the month of September, with the sole exception of Rick Sawyer,
20 a former employee of Defendant discussed in the Amended Complaint and a witness Named
21 Plaintiff believes is key for Plaintiff's Motion for Class Certification ;

22 WHEREAS, although the Parties have been diligent in trying to schedule Mr. Sawyer's
23 deposition, the only available date for Named Plaintiff's counsel, Defendant's counsel, and Mr.
24 Sawyer is October 3, 2012, two days before the current due date for Named Plaintiff's Motion
25 for Class Certification;
26
27
28

1 WHEREAS, on August 1, 2012, Defendant sent a letter to Plaintiff's counsel requesting
2 the deposition of Named Plaintiff in September, but was advised by Plaintiff's counsel that
3 Named Plaintiff is not unavailable for deposition during the last two weeks of September;

4 WHEREAS, although the Parties have been diligent in trying to schedule Named
5 Plaintiff's deposition, the first available date for Named Plaintiff, Plaintiff's counsel, and
6 Defendant's counsel is October 9, 2012;

7 WHEREAS, the Parties previously requested a four month extension of the hearing on
8 Plaintiff's Motion for Class Certification [Dkt. 58];

9 WHEREAS, the previous request for the extension of the hearing on Plaintiff's Motion
10 for Class Certification was denied [Dkt. 59];

11 WHEREAS, the Parties understand the Court's desire to keep the hearing date on
12 Plaintiff's Motion for Class Certification. Thus, this Stipulation does not seek to change the
13 hearing date for Plaintiff's Motion, but only changes its briefing schedule.

14 WHEREAS, while the proposed schedule shortens Defendant's time in which to oppose
15 class certification, Plaintiff has represented that Defendant will not be prejudiced by the
16 shortened response time as Plaintiff has agreed to identify any potential declarants in a timely
17 fashion and to cooperate fully in Defendant's efforts to take their depositions sufficiently in
18 advance of the deadline for Sears' opposition brief.

19 ACCORDINGLY, pursuant to Civil Local Rules 6-2 and 7-12, the Parties hereby
20 stipulate to, and request the Court's approval of, a change in the class certification briefing
21 schedule, while keeping the same hearing date:

22 Deadline for filing of Plaintiff's anticipated 23 motion for class certification	October 12, 2012
24 Sears' opposition to class certification due	November 9, 2012
25 Plaintiff's reply in support of class certification 26 due	November 26, 2012
Hearing on motion for class certification	December 11, 2012

1 Dated: September 12, 2012

Respectfully submitted,

2 /s/ T. John Kirk

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Attorneys for Defendant

AMENDED
[PROPOSED] ORDER

Pursuant to the Stipulation between the Parties, and good cause appearing therefor, IT IS
HEREBY ORDERED, that

1. Plaintiff shall file his motion for class certification on or before October 12, 2012;
2. Defendant shall file its response in opposition to the motion for class certification on
or before November 9, 2012;
3. Plaintiff shall file his reply in support of the motion for class certification on or before
November 26, ²⁰¹²~~2013~~;
4. The hearing on the motion for class certification will be set for December 11, 2012 or
as the Court's schedule may allow.

IT IS SO ORDERED.

Dated: September 18, 2012



JUDGE YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE